

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

**BOBBY CLEVENGER and
SUSAN CLEVENGER,**

Plaintiffs,

VS.

GLOBAL INDUSTRIES, INC.,
a Nebraska corporation, and
SMITHWAY MOTOR XPRESS, CORP.,
an Iowa corporation,

Defendants.

8:08CV106

ORDER

This matter is before the court sua sponte.

On August 13, 2008, the plaintiffs filed an Amended Complaint ([Filing No. 25](#)).¹ The plaintiff did not file the amended complaint with leave of court, stipulation of the defendants or otherwise in compliance with the local or federal rules governing such procedure. **See** [Fed. R. Civ. P. 15](#); [NECivR 15.1](#). It appears the plaintiffs filed the amended complaint, prior to the deadline for filing motions to amend, add allegations to previous claims and to remove a defendant, Smithway Motor Xpress, Corp., previously named as a nominal defendant for protection of its worker's compensation benefits subrogation interest. The defendant Global Industries, Inc. has filed an answer ([Filing No. 8](#)). Although it had been served ([Filing No. 7](#)), Smithway Motor Xpress, Corp. has not made an appearance in the case.

Under these circumstances and pursuant to the rules, the plaintiffs are required to seek leave of court or stipulation by the defendants prior to filing an amended complaint. Accordingly, the plaintiffs' amended complaint will be stricken and the defendants need not file a response. Upon consideration,

¹As a convenience, this document contains certain cross-document hyperlinks to documents previously filed in this case. This document also contains links to the Nebraska local rules the Federal Rules. The hyperlinked documents appear in blue underlined text. Except with regard to the local rules, access to the hyperlinked material is subject to fees pursuant to user agreements. The hyperlinks may be accessed without PACER fees by use of the public computer terminal in the Clerk's office.

IT IS ORDERED:

The Clerk of Court shall strike the plaintiffs' Amended Complaint ([Filing No. 25](#)) from the record in this case.

DATED this 14th day of August, 2008.

BY THE COURT:

s/ Thomas D. Thalken
United States Magistrate Judge